

**Notice of Allowability**

Application No.

09/658,763

Examiner

Jenna-Leigh Befumo

Applicant(s)

HARTGROVE, HERBERT PARKS

Art Unit

1771

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed March 3, 2003.
2. ☒ The allowed claim(s) is/are 12-14, 16 and 19-25.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☒ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date 5/04.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Stephen D. Geimer on May 12, 2004.

The application has been amended as follows:

Please Cancel Claims 1 – 11.

### *Drawings*

2. The drawings are objected to because Figure 1 has dashed-line boxes and solid line boxes which overlap and make it difficult to read the wording within the boxes. Are both boxes and labels suppose to present? If so the Applicant should rearrange the wording so that the labels are easier to read. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign mentioned in the description: 24, mentioned on page 9 of the disclosure. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Art Unit: 1771

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference signs not mentioned in the description: 16 and 20 in Figure 1. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference signs in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***REASONS FOR ALLOWANCE***

5. The following is an examiner's statement of reasons for allowance:

6. The Amendment submitted on March 3, 2003, has been entered. Claims 15, 17, and 18 have been cancelled. Claim 12 has been amended. Nonelected claims 1 – 11 have been cancelled above. Therefore, the pending claims are 12 – 14, 16, and 19 – 25.

7. Applicant's arguments are sufficient to overcome the 35 USC 112 2<sup>nd</sup> rejection since the Applicant has recited sufficient structural limitations in the claim to produce the claimed properties and has not just claimed properties alone.

8. Further, the 35 USC 112 1<sup>st</sup> rejection stating that the phrase "elastomeric polymer emulsion" was new matter is withdrawn since the disclosure clearly recites this limitation on page 10, line 7, as pointed out by the Applicant.

9. Finally, the 35 USC 103 rejection is withdrawn since Cruise et al. discloses a nonwoven fabric produced by bonding two hydroentangled fabrics together, and does not disclose a three-dimensional fabric produced by hydroentangling a nonwoven fabric on a three-dimensional image transfer device. Nor do the other references in the rejection provide sufficient motivation to produce a three-dimensional image in the fabric taught by Cruise et al. by hydroentangling the material on a three-dimensional image transfer device.

Art Unit: 1771

10. Claims 12 – 14, 16, and 19 – 25 are allowed.

11. The prior art fails to teach or fairly suggest producing a three-dimensional image in a fabric by hydroentangling the fabric against a three-dimensional image transfer device and then coating the fabric with an elastomeric polymer finish and finally dyeing the fabric. While the prior art teaches three-dimensional hydroentangled fabrics, such as James et al. (5,822,833) there is no suggestion or teaching to add the polymer coating to the structure. And while the prior art discloses hydroentangled fabrics which have elastomeric coating such as Civardi et al. (4,341,581) and Ashida et al. (5,503,899), these references do not teach using a three-dimensional structure, nor would it be possible for the fabric to maintain the claimed three-dimensional structure present in the final product after the fabric has been coated and treated as taught in those references.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

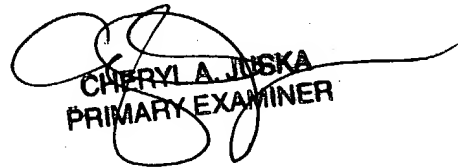
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (571) 272-1472. The examiner can normally be reached on Monday - Friday (8:00 - 5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1771

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jenna-Leigh Befumo  
May 12, 2004



CHERYL A. JNSKA  
PRIMARY EXAMINER